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Martin B. Pavane  
COHEN, PONTANI, LIEBERMAN &  
PAVANE  
551 Fifth Avenue, Suite 1210  
New York, New York 10176

In re Application of  
MULLER, Paul A. (deceased)  
Application No.: 09/403,329  
PCT No.: PCT/FR98/00785  
Int. Filing Date: 17 April 1998  
Priority Date: 18 April 1997  
Attorney's Docket No.: 33900-56PUS  
For: A METHOD AND DEVICE FOR MAKING  
A CONTAINER PROVIDED WITH A LABEL

DECISION ON

PAPERS

UNDER 37 CFR 1.42

This is a decision on the "RESPONSE TO DECISION ON PAPERS UNDER 37 C.F.R. 1.42 AND 1.44" filed 26 October 2000.

#### BACKGROUND

On 17 April 1998, applicant filed international application PCT/FR98/00785, which claimed a priority date of 18 April 1997. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 October 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 16 November 1998, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 18 October 1999.

On 15 October 1999, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 02 December 1999, the United States Patent and Trademark Office (USPTO) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE U.S. DESIGNATED/ELECTED OFFICE (DO/EO/US) (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(e) were required. The NOTIFICATION set a one-month extendable time period for reply.

On 27 December 1999, applicant submitted a RESPONSE TO NOTIFICATION OF

MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE U.S. DESIGNATED/ELECTED OFFICE (DO/EO/US). The RESPONSE was accompanied by, *inter alia*: the requisite fee for the surcharge; a Declaration executed by Colette Potier-Muller as the heir of Paul A. Muller; and a Certificate and an English translation of the Certificate stating that Colette Mueller is the sole heir of Paul Mueller.

On 26 April 2000, the USPTO mailed a decision dismissing the request for status under 37 CFR 1.42 and not accepting the proof of authority under 37 CFR 1.44. Specifically, it was noted that the declaration did not state that Ms. Potier-Muller is the sole heir of Paul A. Muller or that she is the legal representative of the deceased. Other issues, such as different names being provided for Ms. Potier-Muller (e.g., Ms. Mueller and Ms. Potier-Muller) and different spellings of names (e.g., Mueller rather than Muller) were also noted.

On 26 October 2000, applicants submitted the instant "RESPONSE TO DECISION ON PAPERS UNDER 37 C.F.R. 1.42 AND 1.44" accompanied by, *inter alia*, a declaration of inventor signed by Colette POTIER-MULLER as "Sole Heir and Legal Representative" of Paul A. MULLER.

#### DISCUSSION

The above application and papers have been reviewed and have been found in compliance with 37 CFR 1.42.

Papers have also been filed under 37 CFR 1.44 to satisfy the proof of authority. However, these papers are moot. The proof requirement under 37 CFR 1.44 was deleted as to all pending papers under 37 CFR 1.42 that had not had the proof requirement satisfied as of 08 September 2000. 54604 **Federal Register**, Vol. 65, No. 175, Friday, September 8, 2000, 54618.

It is noted that while the other issues noted in the decision mailed by the USPTO on 26 April 2000 have been addressed in the submission filed by applicants on 26 October 2000, these issues are moot in view of the new declaration submitted 26 October 2000 and the deletion of the requirement for proof of authority.


#### CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**

The papers filed under 37 CFR 1.44 are **MOOT**.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing including according the application 35 U.S.C. 371(c) date of **26 October 2000**.



Daniel Stemmer  
PCT Legal Examiner  
Office of PCT Legal Affairs  
Tel.: (703) 308-2066  
Fax: (703) 308-6459



Leonard Smith  
PCT Legal Examiner  
Office of PCT Legal Affairs